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A Model Ethics Program for a Department of Defense Contracting Office

by

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Ethical conduct standards have been a great concern of the Department of Defense (DoD) for decades. This is especially true in how its employees, particularly contracting officials, use them in making an ethical business decision. Most recently, August 30, 1993, DoD reissued the DoDD 5500.7, Standards of Conduct and implemented the new DoD 5500.7-R, Joint Ethics Regulation (JER) to "standardize" all ethical conduct standards. These ethical conduct standards, contained in the JER, represent one standard meant to be followed by all DoD components. This Thesis develops a model ethics program meant for use by all DoD component contracting offices and other entities such as a contracting division of a systems command. It contains standardized program elements used to implement the conduct standards espoused in the JER.

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This Thesis develops a model ethics program meant for use by all DoD component contracting offices and other entities such as a contracting division of a systems command. It contains standardized program elements used to implement the ethical conduct standards espoused in the JER.

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I. INTRODUCTION

> Ethics deals with the choices to be made by individuals in their relationships with others and it also deals with adherence to the rules and standards that govern the conduct of institutions and groups in our society. The distinctions between ethical choices by individuals and adherence to rules and standards governing institutional conduct are not static. They are especially dynamic in the world of Government contracting in which more and more often those choices that were once exclusively individual ethical judgements are now governed by laws and regulations. [Ref. 16:p. iii]

The above quotation comes from a Government contract study authored by the Logistics Management Institute on developing an ethics program. It says how important it is to follow laws and regulations concerning ethical decision making and that when making decisions they can't always be based on individual judgement. [Ref. 16:p. iii]

A. GENERAL

Ethical standards have been an integral part of Governmental policy since May 10, 1954 when President Dwight D. Eisenhower issued Executive Order #10530. This order outlined ethical conduct standards for "Government officers and employees". [Ref. 8:p. 10]

For approximately 31 years, no Governmental report has been more specific in identifying the need for more effective ethics programs within the Department of Defense (DoD) than President Reagan's Blue Ribbon Commission on Defense Management. This commission studied defense management and

organization from July 1985 until February 1986. It reported its findings to the President and it specifically addressed ethics in DoD acquisition (procurement and contracting). [Ref. 14:pp. xi-xvii]

The Commission was quite critical of DoD Directive (DoDD) 5500.7, which prescribed standards of conduct for all DoD personnel, but did not outline specifics on ethics programs for acquisition personnel in the Department of Defense. Even with the findings of the Blue Ribbon Commission Report, the May 6, 1987 update to DoDD 5500.7 was not changed to include required ethics program elements for DoD acquisition activities. The Commission's report seemed to justify change in the implementation of ethics programs:

> In defense acquisition, as throughout the Government, there is a substantial incidence of federal employee involvement in reported cases of fraud and other unlawful conduct. Many cases have involved bribery or other criminal activity by relatively low-level purchasing officials at military procurement facilities, and others have involved gratuities for senior personnel. Such official misconduct in the acquisition system is doubly destructive: it subverts operations of DoD and defense industry, and corrodes public confidence in Government and business generally. It is critical in defense management to establish and maintain an environment where official standards of conduct are well understood, broadly observed, and vigorously enforced. We believe that significant improvements are required. [Ref. 14:p. 95-96]

In 1989, the President's Commission on Federal Ethic's Law Reform made a recommendation to the President that a "single set of regulations" should be compiled by the Office of Government Ethics to consolidate "...all executive branch standards of conduct regulations." But, it was important that

the Office of Government Ethics function more than just as an entity that trains general Government employees on the legal and regulatory requirements for standards of conduct laws:

> The role that the Office of Government Ethics has played in briefing, counseling, and advising political appointees who have before-the-fact questions about how conflict-of-interest regulations will affect them needs to be expanded to other categories of employees--procurement officers, auditors, investigators, managers, analysts, lawyers, and so on. [Ref. 3:p. 234]

In August of 1993 the Office of Government Ethics consolidated the Executive Branch standards of Conduct into DoD 5500.7-R Joint Ethics Regulation (JER) which establishes a single source of ethical conduct and ethics guidance. It also contains ethical guidance for financial and employment disclosure procedures, enforcement, and training to include an appendix which contains Federal Acquisition Regulation (FAR) Part 3.104, Procurement Integrity. [Ref. 19:p. i & 166-18] But, nowhere in the regulation does it discuss contracting ethics programs, only specific ethics requirements for meeting the procurement integrity certification of procurement officials.

Even though the DoD Joint Ethics Regulation and Standards of Conduct directive DoDD 5500.7 do not call for a specific ethics program within a particular branch of the service's contracting program, this Thesis will investigate whether a standardized DoD ethics program may help prevent possible unethical conduct. Such a program will give the DoD

contracting work force some tools to help enhance ethical practices in the work place.

B. OBJECTIVES

The objective of this Thesis is to research the feasibility of a standardized ethics program for a DoD contracting office. Specifically, the research will attempt to determine what elements are required for a standardized ethics program.

C. RESEARCH QUESTIONS

The following Primary question and Subsidiary questions will be answered by the Thesis research.

1. Primary

Can a standardized DoD ethics program be developed for use by all DoD component contracting offices?

2. Subsidiary

a. What are the legal and regulatory requirements affecting ethical conduct standards?

b. What ethics programs are currently being used by DoD contracting offices?

c. What are the advantages and disadvantages of using generic published and civilian ethics program elements in a DoD contract ethics program?

d. What are the essential elements of a standardized ethics program in a DoD contracting office?

D. SCOPE AND ASSUMPTIONS

1. Scope

The scope of this Thesis research includes ethics programs currently in use and proposed for use in contracting offices. But, it will not address how to comply with individual DoD standards of conduct and the consequences of violating these standards. Nor will it suggest new standards of conduct or changes to old ones. It does integrate existing written and practiced ethics program frameworks and program developments to develop this standardized DoD ethics program.

2. Assumptions

It is assumed that any reader of this thesis has a general understanding of the Department of Defense, and that there are separate contracting (buying) offices within the Army, Air Force, and Navy. It is further assumed, that any reader is familiar with the basic standards of ethical conduct required in civilian business and DoD.

E. KEY DEFINITIONS AND ACRONYMS

1. Acquisition: Means the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. [Ref. 6:p. 16,027]

2. Contracting Office: The office which awards or executes a contract for supplies or services and performs postaward functions not assigned to a contract administration office. [Ref. 6:p. 16,027]

3. Contracting Officer: A person with the authority to enter into, administer, or terminate contracts and make

related determinations and findings. The term includes any authorized representatives of the contracting officer acting within the limits of their authority. ...does not require that a duty be performed at a particular office or activity, or restrict in any way a contracting officer in the performance of any duty properly assigned. [Ref. 6:p. 16,027]

4. Contractor: An entity in private industry which enters into contracts with the Government. The word may also apply to Government-owned, Government-operated activities which perform work on major defense programs. [Ref. 21:p. 167]

5. Ethics Program: Webster's Dictionary defines ethics as, The rules or standards of conduct governing the members of a profession. [Ref. 29:p. 445] The dictionary then defines program as, An organized list of procedures: SCHEDULE. [Ref. 29:p. 940]

6. Federal Acquisition Circular (FAC): Document issued by the Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council to amend the Federal Acquisition Regulation. [Ref. 2:p. GL-11]

7. Federal Acquisition Regulation (FAR): Uniform set of procurement regulations which went into effect 1 April 1984 as the primary set of regulations governing all Government contracting. [Ref. 2:p. GL-11]

8. Procurement: In the supply management sense, it may include the functions of design, standards determination, specifications writing, selection of suppliers financing, contract administration, and other related functions. [Ref. 21:p. 542]

9. Standardized: Cause to be in agreement with an accepted measure of comparison for quantitative and qualitative value. [Ref. 29:p. 1131]

F. METHODOLOGY

The Thesis research will begin with a request to DoD and civilian contracting offices for their ethics program. Concurrently, a literature review will be performed. Next, to facilitate further research, interviews and questionnaires will be completed to ensure the most recent data is available

for analysis. Interviews and questionnaires will allow the researcher to gain data from many areas of the DoD and defense contractor procurement process and different levels of contracts management. Specifically, this data will be acquired from an organization's designated ethics official, head of procurement or contract buying program, and some of the buyers. This type of information gathering will identify the true feeling and the attitudes of the contracting work force. Also, this solicitation of data may generate many organizations' interest in the finished model ethics program.

G. ORGANIZATION OF STUDY

The Thesis will be presented in six chapters. Chapter I (Introduction) has discussed the structure and direction in which thesis research will proceed.

Chapter II (Background) will discuss U.S Government ethics laws, and DoD ethics policies and directives to include acquisition related requirements as they relate to procurement and contracting policy and programs.

Chapter III (Introduction to Ethics Programs and Frameworks) will discuss an overview of ethics programs and frameworks contained in a DoD contract study, a Thesis, and a DoD contractor's ethics program.

Chapter IV (Research methodology) will discuss the personal interviews and the reasoning for selecting a survey as one of the main sources of research data. A discussion of

the target population, sample size, and survey design will also be addressed as part of the methodology.

Chapter V (Data Presentation and Analysis) will discuss individual survey questions and the survey responses as well as analyze the data acquired from the survey questionnaires and compare the data analysis to an ethics program framework discussed in Chapter III.

Chapter VI (Conclusions and Recommendations) will conclude whether or not a standardized DoD ethics program for contracting offices is feasible and, if so, what are the elements that make up such a program based on the data analysis.

II. BACKGROUND

A. GENERAL

In order to understand the basis for standards of ethical conduct and ethics programs in the Department of Defense; more specifically Defense acquisition, procurement, and contracting, this chapter discusses the historical development of Government ethics. It illustrates the evolution of laws, policies, and regulations which led up to the 1993 consolidation of Defense Standards of Conduct in DoD Joint Ethics Regulation (JER), DoD 5500.7-R.

B. GOVERNMENT ETHICAL CONDUCT STANDARDS EVOLUTION: 1954-1975

The first formal ethical conduct standards for Government employees was issued by Executive order in 1954. Dwight D. Eisenhower's issuance of Executive Order #10530 outlined ethical conduct standards for Government officers and employees in specific agencies such as the United States Civil Service Commission and the Attorney General's Office. [Ref. 8:p. 10]

Within four years of the Executive Order there was a move to extend ethical and moral conduct to include all Government employees, the "Code of Ethics for Government Service" was developed and resolved by the House of Representatives and the Senate by Concurrent Resolution 175, July 11, 1958. [Ref.

26:p. B12] The principles of Concurrent Resolution 175 still stand today as the Code of Ethics for Government Service:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments there in and never be a party to their invasion.

3. Give a full day's labor for a full days pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duties.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust. [Ref. 26:p. B12]

In 1961, the Supreme Court case United States V.S. Mississippi Valley Generating Company, known as "Dixson-Yates", became a dramatic kick-off point for ethical conduct standards, starting with conflicts of interest identification in Government contract ethics. This Supreme Court decision

involved the cancellation of a Government contract because a civilian banking officer, who was providing consulting services to the United States Bureau of Budget, violated 18 USC 434, the conflict of interest statute. In the suit, the Government argued that the banking official could have caused the financial decision of the contractor to go to the consultant's bank of employment of which the bank could make a profit on the loan. [Ref. 10:p. 24] The Supreme Court ruled:

> The basic conflict of interest statute (18 USC 434) provides that it is a crime, punishable by fine and/or imprisonment, for a person who while directly interested in the ...profit or contract of any...business entity..acts as a agent of the US for the transaction of business with such business entity... The statute is thus directed not only at dishonor, but also at conduct that tempts dishonor. It is more concerned with what actually happened. It attempts to prevent honest government agents form succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation. [Ref. 10:p. 24]

The Supreme Court points out that prior to the initial award of the contract, the Government contract negotiators were aware of the consultants relationship with the Defense contractor; he made a full financial disclosure to the Government. But, the Government failed to take action until after the contract award. This case showed the true spirit of 18 USC 434. The case decision further illustrated that proof of a conflict of interest only requires that a Government official had financial or other interest in the organization with which it was working. Therefore, any subjective determination such as intent in the suspected conflict of

interest is not required and the determination becomes objectively supported by the evidence in the allegation. [Ref. 10:pp. 24-25]

After President John F. Kennedy's election to office in 1960, he made the reform of ethics law as one of his administration priorities. President Kennedy felt that Government officials must maintain ethical standards of behavior at the highest degree. But, the current conflict of interest laws were not sufficient or clear enough in the areas of bribery and gratuities. [Ref. 10:p. 25]

Public Law (P.L.) 87-849 was passed on October 23, 1962 for the purpose of strengthening the criminal laws relating to conflicts of interest. This law set specific standards of conduct for members of Congress, Commissioned Officers, and retired officers of the armed forces; specifically in the areas of accepting gratuities, employment after Government service, and personal financial interests. [Ref. 27:pp. 1119-1126]

In 1963, President Lyndon B. Johnson's administration brought forward President Kennedy's ethics reforms. On May 8, 1965, President Johnson devised improvements in the Standard of Conduct for Government Service extending them to include *all* Government employees in his Executive Order, 11222, entitled, Prescribing Standards of Conduct for Government Officers and Employees. Public Order 87-849 and Concurrent Resolution 175 were included in the Executive Order to produce

a consolidated policy on the Standards of Conduct. [Ref. 10:pp. 26-27]

The policy statement in the President's order said that because the Government is based on democracy, "the public has the right to have confidence in the integrity and ethical conduct of everyone in the Government." [Ref. 23:p. 68] This included every individual Government Officer, advisor, Special Government Official (part-time employee working less than 130 consecutive days for the Government), and employee. [Ref. 23:pp. 68-69]

In addition to including prior legislation on gratuities, bribery, and financial conflicts of interest, Executive Order 11222 created a subsection which was at that time a catch-all directive to identify prohibited conduct. It stated that Government employees must avoid any conduct, even if it is not prohibited by a Government agency regulation, which could result in, or give the impression of:

(1) using public office for private gain;

(2) giving preferential treatment to any organization or person;

(3) impeding Government efficiency or economy;

(4) losing complete independence or impartiality of action;

(5) making a government decision outside official channels; or

(6) affecting adversely the confidence of the public in the integrity of the Government. [Ref. 23:p. 69]

This Executive Order's consolidation of standards of conduct made the then current 1963, DoDD 5500.7, Standards of Conduct obsolete. It was not until 1966 that the three improvements of: 1) making all standards of conduct applicable to every Government employee in the Executive Branch; 2) giving responsibility of enforcing ethical conduct to the Office of Personnel Management; and 3) requiring senior Government officials to submit financial disclosure statements were incorporated into DoDD 5500.7. [Ref. 10:p. 28]

C. GOVERNMENT ETHICS AND PROCUREMENT: 1975-1991

The next major changes to the Standards of Conduct, were contained in the 1975 update to DoDD 5500.7 which prohibited the following:

> 1. Customary exchange of social amenities between personal friends and relation motivated by such relationships and extended on a personal basis.
>
> 2. Transactions between and among relatives which are personal and consistent with the relationships. [Ref. 10:p. 33]

Those two provisions were incorporated into the directive because of the embarrassing public disclosure of hundreds of Government procurement officials participating in all-expense paid trips from Defense contractors. But soon after the changes to the DoD Directive, the Government Tri-Service Committee on Standards of Conduct met and decided these standards of conduct were now defined as "the innocent exchange of normal amenities with relations and bona fide

personal friends who happened to be associated with a Defense contractor." [Ref. 10:pp. 32-34] As a result of the committee's investigation, the first prohibition, as quoted above, was included as acceptable conduct in the January 15, 1977 update to DoDD 5500.7. [Ref. 10]

In further response to conflicts of interest and "to preserve and promote the integrity of public officials and institutions", [Ref. 28:p. 1836] President Jimmy Carter signed into law, P.L. 95-521, Ethics in Government Act of 1978. This Act imposed specific financial disclosure requirements for employees of the Executive Branch in Title II of the Act for Civil Service pay grade GS-16 and above and the uniformed services pay grade 07 and above. These individuals were required to report annually, their income and its source consisting of capital gains, interest, rent, and dividends in excess of $100. The Act also stipulated that the financial disclosure would be made available to the public. The President included a provision in the law that he may require officers and employees ie., procurement and contracting officials, which are not referenced in the P.L. 95-521, to file confidential disclosures. [Ref. 28:pp. 1836-1850]

To direct and oversee all Executive Branch policy in areas relating to the prevention of conflicts of interest, the President established the Office of Government Ethics within the Office of Personnel Management under Title IV, P.L 95-521 on October 26, 1978. The office was charged with the review

of financial disclosure statements, interpreting rules and regulations on ethics as issued by the President, monitoring agency ethics compliance, and assisting agency ethics counselors. [Ref. 28:pp. 1862-1863]

During President Ronald Reagan's administration, just as many of the prior administrations, ethics reform continued in the Executive Branch, especially in the area of procurement and acquisition. Four major reforms took place from 1981 through 1986. The first two reforms were: OMB Circular A-123, Internal Controls System, which established internal control policy in the Executive departments; and the President's Council on Integrity and Efficiency, which monitored the enforcement of ethics in management and the combatting of fraud, waste, and abuse, both of which occurred in 1981. The last two reforms were: Executive Order 12352, Uniform Federal Procurement System, in 1982 and the President's Blue Ribbon Commission on Defense Management, in 1985. [Ref. 15:p. 17]

Executive Order 12352 was established to ensure effective and efficient expenditure of public funds in the Government procurement of end items and services from civilian contractors. It charged the Office of Federal Procurement Policy with ensuring an Executive Agency eg., Department of Defense, provide for and achieve procurement reform in such areas as: establishing requirements for training and appointment of contracting officers; facilitating the effort of coordinating common procurement reform between agencies;

and identifying procurement laws and policy which are inconsistent. [Ref. 24:p. 845]

The last reform of the Reagan Administration was the President's establishment of his Blue Ribbon Commission on Defense Management, better known as the Packard Commission, which was commissioned to investigate Defense Management from July 15, 1985 to February 28, 1986. As previously discussed, the commission revealed that DoD did not prescribe specific ethics program requirements needed for acquisition personnel. David Packard, Chairman of the Commission, discussed DoD's responsibility in governing its own ethics in acquisition and contracting:

> Excellence in defense management will not come from legislative effort to control and arrange the minutest aspects of DoD's operations...DoD must displace systems and structures that measure quality by regulatory compliance and solve problems by executive fiat.... Defense contractors and DoD must each assume responsibility for improved self-governance to assume the integrity of the contracting process. [Ref. 14:p. xii]

The Packard Commission's report, Chapter III, Section B., on DoD Standards of Conduct, revealed and implied many specific deficiencies in ethical guidance and training specifically for DoD acquisition personnel, such as:

> 1. DoD's published conduct regulations do not provide timely or effective guidance to personnel engaged in the acquisition process. DoDD 5500.7, Standards of Conduct, has not been updated since 1977 or revised to reflect such subsequent developments... [Ref. 14:p. 95]
>
> 2. [No] system exist[s] to ensure that all DoD acquisition personnel receive, on a periodic basis, a prescribed minimum of ethics training.... [C]onsiderable disparity exists in the effort that DoD acquisition organizations expend in this area. [Ref. 14:pp. 95-96]

3. An effective program of instruction and compliance concerning ethics matters, including post-employment disqualifications and reporting, should be established and implemented. [Ref. 14:p. 96]

4. [T]he important challenge for management lies in improving compliance with existing ethical standards, not in defining new or more stringent standards. [Ref. 14:p. 96]

Less than a year after the Packard Commission Report, The DoD Office of the Inspector General (OIG) prepared a report on February 17, 1987 entitled, Final Report on Gratuities and Standards of Conduct Issues Relating to DoD Procurement 84FDH006. This report, as did the Packard Commission's, identified the need for ethics program reform. [Ref. 12:pp. 1-5] Specifically, it stated:

> The integrity of Department of Defense employees particularly in the procurement community, is the single most important factor.... [A]nd effective ethics program, with clear and definitive standards of Conduct and guidance...is critical to ensuring the integrity of Defense personnel and programs. [Ref. 12:p. 1]

The OIG's 1987 report was quite critical of the Office of General Counsel's failure to update the DoDD 5500.7, dated January 15, 1977, Standards of Conduct. It said that the current ethical conduct standards consisted of an outdated DoDD 5500.7, which does not contain the ten years worth of ethics laws and regulations coming from various levels of the government. This short-coming made it next to impossible for DoD procurement employees to understand current ethical conduct standards especially in the area of conflicts of interest eg., the acceptance of gratuities. [Ref. 12:p. 1]

The report recommended many ethics reforms and four of the major recommendations were: 1) The Office of General Counsel should be given the responsibility to develop a DoD ethics program; 2) A special standards of conduct training program should be developed for acquisition personnel, a program which is specifically focused on ethics in the procurement environment; 3) Reissue DoDD 5500.7, Standards of Conduct, which would include the integration of ethics legislation since 1977; and 4) Post employment reporting procedures for retired or prior Government employees. [Ref. 12:pp. 3-5]

On May 6, 1987, DoD reissued DoDD 5500.7 and integrated many of the recommendations made by the Packard Commission and the 1987 OIG report. Specifically, changes were made in three areas, which are also discussed further below: 1) Financial disclosure reporting for prior and current DoD employees; 2) Standards of Conduct management responsibility in components and agencies were designated for the first time; and 3) Release of acquisition information and relationships with Defense contractors. [Ref. 17:pp. 1-21]

First, the financial disclosure requirements found in the Ethics in Government Act of 1978 were refined and included two categories in the reissued DoDD 5500.7. The first category required current and former senior DoD officers, pay grade 07 and above and civilian Government employees GS-16 and above to file DD Form 278, Financial Disclosure Report. This report was filed annually and publically disclosed in the Federal

Register. The second category required current and former DoD officers in the grade of 04 to 07 and civilian Government employees GS-13 to GS-16 to file DD Form 1555, Statement of Affiliation and Financial Interest. This report was filed annually if their duties required them to exercise judgement on Defense contracts and procurement. But, their statements were held as confidential and were not for public disclosure. [Ref. 17:pp. 16-24]

Next, the regulation assigned specific Standards of Conduct management responsibility to DoD components, Designated Agency Ethics Officials (DAEO's), and the DoD Office of General Counsel. Most importantly, for the first time, the DoD General Counsel was assigned responsibility to maintain the DoD Standards of Conduct regulation and establish a DoD Ethics Oversight Committee. [Ref. 17:p. 18]

Finally, the Standards of Conduct regulation, for the first time, addressed the release of acquisition information and DoD employee relationships with Defense contractors. DoD employees were specifically prohibited from releasing information pertaining to proposed acquisitions and from using their position to coerce or induce Defense contractors into a contract or for favors. Related to this, the acceptance of gratuity limit for unsolicited advertising or promotional items was raised from $5.00 to $10.00. Though this represents a small dollar value for gratuities, it was nevertheless, a

highly contested topic in the OIG report. [Ref. 12:pp. 1-9; Ref. 17:p. 9]

In January of 1989, the DoD OIG introduced another document, but this time a guide entitled: Defense Ethics, A Standards of Conduct Guide for DoD Employees, IGDG 5500.8. This guide was established as an easy to read question and answer format of laws, orders, and regulations. It gave the DoD work force a quick reference source of information to answer a variety of ethical dilemma questions which DoD employees may face. [Ref. 20:pp. 1-14]

Later in January, on the twenty-fifth, President Bush issued Executive Order 12668, which established the President's Commission on Federal Ethics Reform. This commission recommended the consolidation of all Standards of Conduct into a single set of regulations for the Executive Branch. [Ref. 8:pp. 14-15]

On April 12, 1989, President Bush issued the Government Wide Ethics Act of 1989 for the Executive Branch Standards of Conduct to "raise ethical standards, avoid conflicts of interest, and ensure that the law is respected in fact and appearance." [Ref. 8:pp. 14-15] He further instructed that the Office of Government Ethics (OGE) would develop the single set of regulations. [Ref. 25:pp. 210-211]

The Bush Administration continued its ethics reform by introducing the Office of Federal Procurement Policy Act, 41 USC 423, on July 16, 1989 with amendments by P.L.'s 101-189

and 101-510 in 1990. Section 27 of the Act, "Procurement Integrity", was incorporated into the Federal Acquisition Regulation (FAR) Part 3, Subpart 104, by Federal Acquisition Circular (FAC) Number 90-2, November 30, 1990. [Ref. 22:p. 1; Ref. 19:pp. 166-1 thru 166-39]

The procurement integrity provisions of Section 27 of 41 USC 423, as incorporated in FAR 3.104, required:

> Individuals who serve the Government as procurement officials on or after December 1990 must sign a certification stating that they are familiar with, and will not engage in conduct prohibited by, Subsection 27(b), (c) and (e), and that they will report any information concerning a violation or possible violation of Subsection 27(a), (b), (d) or (f). [Ref. 19:pp. 166-14 thru 166-18]

To further enhance standards of conduct and integrity issues not only in DoD procurement, but in the DoD acquisition process as well, an Ethics Council was created by DoDD 5120.47, DoD Ethics Council, September 5, 1989. The Council consisted of the Under Secretary of Defense for Acquisition USD(A), the Secretaries of the Military Departments, and the other DoD Agencies. It's responsibility was to implement a Defense Acquisition Ethics Program and supplement the current DoDD 5500.7. The program's objective was to further awareness and understanding of ethical issues and values and how they apply to commanders and supervisors in the acquisition work force. [Ref. 13:p. 2]

On September 26, 1991, the USD(A), Mr. Don Yockey, issued a memo to all the components and major agencies of DoD. He mandated two specific requirements for the heads of these

subordinate entities. First, Mr. Yockey required that all mandatory acquisition education courses be revised to incorporate instruction on the program and the duty of commanders and managers as ethical leaders. Secondly, he required that each agency ensure all acquisition personnel and ethics counselors were provided a copy of the eight page handbook he included as an attachment to his memo. The handbook entitled, "Personal Integrity-Public Trust, Ethical Conduct for DoD Acquisition Personnel", established basic ethical principles and responsibilities and addressed standards of conduct violations. [Ref. 13:pp. 1-5]

D. DOD CONSOLIDATES ITS ETHICAL CONDUCT STANDARDS: 1991-1993

From 1991 to 1993, the DoD's Office of General Counsel conducted an exhaustive study of the May 6, 1987 version of DoDD 5500.7 and the laws, policies, and procedures as they pertained to standards of ethical conduct for all DoD employees to include procurement specific initiatives. The end result was a streamlined DoDD 5500.7, Standards of Conduct and a "one-stop shopping guide" or, better stated, an all-in-one regulation, DoD 5500.7-R, Joint Ethics Regulation (JER), both dated August 30, 1993. [Ref. 4] Their purpose was to replace all DoD component and agency Standards of Conduct regulations and to maintain overall uniformity of the Standards of Conduct. Additionally, since the JER was intended as an all-in-one regulation, DoDD 5500.7 revoked DoDD

5120.47, DoD Ethics Council, which in-turn eliminated the formal Defense Acquisition Ethics Program. [Ref. 18;Ref. 19]

E. SUMMARY

The standards of ethical conduct evolved, and continue to evolve, from legislation, executive orders, and other forms of regulation. This chapter was not meant to be an exhaustive study of general ethics development, but rather as a background of Government ethics evolution, its effects on DoD ethics evolution, and its effects on DoD procurement and acquisition. Chapter III, Introduction to Ethics Programs and Frameworks, will discuss ethics program frameworks developed by DoD research and a Defense contractor.

III. INTRODUCTION TO ETHICS PROGRAMS AND FRAMEWORKS

A. GENERAL

Even though, the DoDD 5500.7, Standards of Conduct and DoD 5500.7-R, Joint Ethics Regulation, do not provide or outline standardized ethics programs for contracting offices or buying commands, they also do not prevent the use or development of contracting office specific ethics programs. [Ref. 18;Ref. 19] Therefore, a number of theses, studies, and DoD contractors have developed ethics programs and frameworks for use in contracting. Three of these works have developed various elements useful for developing a model contracts ethics program. The first is a thesis entitled, A Model Ethics Program Framework for the Navy Field Contracting System Work Force, by Lieutenant Mary E.B. Quatroche, Naval Postgraduate School, Monterey California, in 1987. The second is a DoD study entitled, Developing Ethics Programs: An Industry Primer, Logistics Management Institute, Bethesda, Maryland, in 1989. The last is the Motorola Government Electronics Group ethics program, which, in part, is maintained by Jim Muehleisen, a contract compliance manager, Motorola, Scottsdale, Arizona. These sources will give a flavor for ethics program elements in current use and others that could potentially be included in a model program.

B. QUATROCHE THESIS

1. Background

In her Thesis, Mary Quatroche developed an ethics program to be implemented at a Navy field contracting activity. [Ref. 15:p. 50]

Quatroche found that, because of the complexity of the ethics rules and laws, the contracting work force cannot become informed without formal training and counseling. She suggests that a code of conduct is a useful source of information for the work force. This is also needed because many contracting officials have been accused of procurement integrity violations and using their public office for private gain. [Ref. 15:p. 50] Therefore, Congress will continue to put controls in place to maintain the highest of conduct standards. Finally, ethics program elements developed in Government contracting commands (*in the past*) and by DoD contracting offices have had success in "managing ethics" in these entities. [Ref. 15:pp. 50-51]

2. Framework

The Quatroche Thesis framework identifies four characteristics from which an ethics program for a contracting entity can be developed. The four elements are Policy, Controls, Training, and Audit. [Ref. 15:pp. 52-54]

a. Policy

A policy [Contracting Code] would contain a simplified version of the DoD Standards of Conduct and may

also include a code of ethics. Ultimately, both would be provided to the work force, higher command, and the DoD contractor. [Ref. 15:pp. 52-54]

b. Controls

Controls, which identify ethics risk areas and their countermeasures, would be performed internally by an "individual" outside the normal chain of command, but within a contracting agency's office staff. This individual would be responsible for the reporting of suspected ethics violations such as conflicts of interest. [Ref. 15:pp. 52-54]

c. Training

An effective ethics policy requires both formal and informal training. The responsibility to implement this requirement lies with each manager and supervisor. The training should consist of the work force's ethical responsibilities, case studies, and ethical issues facing the contracting work force. The media for conveying such training are visual aids, two-way communication (interaction in formal and informal training), and publicized ethics related information in daily plans and local publications. [Ref. 15:pp. 52-54]

d. Audit

Ms. Quatroche defines the audit process as an internal review, not a process that is highly dependent on external controls. Such an internal review should be conducted by the command in charge of the contracting entity

to ensure policies and laws are both being followed and enforced. [Ref. 15:pp. 54-55]

C. LOGISTICS MANAGEMENT INSTITUTE STUDY

1. Background

The contracted study (Industry Primer) performed by the Logistics Management Institute (LMI) was intended as a guide for the Chief Executive Officer of a company to help him or her in developing an ethics program. LMI did this by looking at the "company's" organizational structure and the requirements needed to introduce and maintain ethical conduct standards. It was specifically directed toward an ethics program structure for companies involved in contracting with DoD. [Ref. 16:p. iii]

2. The Primer

This study was considered independent of official DoD policy and describes, in depth, four elements of an ethics program of which each element contains a number of distinct sub-elements. The four elements are the Code, Communications, Training, and Monitoring. [Ref. 16:pp. iii-v]

a. Code

A code contains a company creed and employee standards of conduct. The organization's (contractor's) creed is a list of values and responsibilities it commits to its customers and suppliers. It specifically describes the organization's employees, management, and supervisors

commitment to quality management and business responsibilities to the customer. The other sub-element of the Code is a presentation of standards of conduct. Standards of conduct are criteria which allow the employees to make ethical judgements on their behavior; therefore helping prevent unethical conduct. Additionally, standards of conduct delineate the penalties for violations. [Ref. 16:pp. 2-4 thru 2-6]

b. Communications

It is ultimately the supervisor's and manager's responsibility to provide written and oral communications to establish reinforcement of proper ethical conduct for the work force. This communication is provided through four sub-elements which are: distribution of the Code, communique's, a reporting system, and a reporting mechanism. [Ref. 16:p. 2-11]

Distribution of the Code must be done at initial employment by management, and managers must be prepared to answer ethical standards questions as they pertain to the Code. Additionally, employees should be required to sign a certificate that he or she has read, understood, and will comply with the Code as a condition of future employment. It is also imperative that all customers and suppliers receive copies of the Code to verify their understanding. [Ref. 16:pp. 2-11 thru 2-12]

The second sub-element is communiques. Managers must consistently inform the work force about ethical conduct issues by way of written communications, one on one communications, section meetings, visual aids, and electronic means. The most efficient and effective communications methods must be used to inform employees on ethics related issues. [Ref. 16:pp.2-12 and 2-13]

Next is the reporting system. This refers specifically to a "self-governance" type system or other internal mechanism an employee can follow to report suspected unethical conduct through a reporting chain within an organization. Self-governance type systems are effective if the employees have confidence in the organization's commitment to take action on suspected unethical conduct. The only other alternative for employees to take if the internal organization structure is not responsive, might be to use the DoD Hot-line or the news media. In keeping with self-governance methods, the organization must respond to suspected unethical conduct in a timely and confidential manner and allow for the anonymity of employees. [Ref. 16:pp. 2-14 thru 2-16]

The last sub-element of communications is the reporting mechanism, which consists of four methods. The first method is the open-door policy, where top management invites employees at all levels to report alleged unethical behavior. The next two reporting methods are post office box and hot-line. The post office box allows for written

correspondence and the hot-line allows for telephonic reporting in an anonymous and confidential manner. The last method is the use of an ombudsman to coordinate ethics training and investigate suspected ethics violations, to include monitoring the overall ethics program. [Ref. 16:pp. 2-17 thru 2-19]

c. Training

A satisfactory ethics program must consist of instruction to employees on contract compliance (compliance with laws and DoD policy in contracts) and the organization's code of ethics and standards of conduct, which convey the required ethical behavior. It must also be presented in such a "manner, form, style, and length," [Ref. 16:p. 2-20] which gives the employee the ability and tools with which to make ethical decisions and the procedures for seeking assistance. Therefore, the course structure and instruction; size of class and composition; method of training; and amount of training and training attendance, must be considered to maintain a good ethics training program. [Ref. 16:pp. 2-20 thru 2-24]

The materials for the course of instruction and instructor may be acquired from within or outside of the organization. Based on the specific subject being taught, ie., contract compliance, an instructor from outside the organization, such as a law professional, may be an appropriate choice. On the other hand, use of expertise within the organization should be considered by using middle

and top level managers as instructors. This approach may bolster the employees confidence in management's concern in conveying the organization's ethics program. [Ref. 16:pp. 2-20 thru 2-21] The size of the class should be no more 25 employees and composed of employees in the same job position or a mixture depending on the level or specificity of the ethics training. To find the right combination, the organization must experiment to find out what works for their unique situation. [Ref. 16:pp. 2-21 thru 2-23]

To summarize, the methods of training and the amount of training should be tailored to what the organization feels is the most effective. A method that may prove to be the most effective is the lecture style. This style is a concise lecture that integrates view-graphs and films with a follow-up small group informal "round-table" discussion using case studies. This promotes active involvement of employees in developing alternatives and improvement of their ethical decision making process. The quantity and frequency of ethics training varies by organization and depends on the "maturity of the work force." [Ref. 16:p. 2-24] The general practice of DoD contractors is to conduct one to four hours of initial ethics training and follow-up with two hour training classes every two years. But, the frequency and quantity of training will depend on work force evaluations of the training, the results of compliance reports, and the changing of risk areas. [Ref. 16:pp. 2-23 thru 2-24]

d. Monitoring

A monitoring system must be systematic in nature and provide procedures for ensuring its success. The system should allow the organization to perform an evaluation of its ethics program and to identify what it needs if it is to perform as required by the program. The system may consist of internal controls, external audits, or internal audits. [Ref. 16:p. 2-25]

The use of internal controls help to get the work force to adhere to the organization's code of ethics and assist in contract compliance. An internal controls system also helps ensure a more efficient operation by internally identifying high risk ethical compliance areas and the developing of procedures to assist in overcoming or preventing non-compliance. [Ref. 16:pp. 2-25 thru 2-28]

External auditing is the use of an outside agency to evaluate the risk of ethical misconduct in an organization. The audit evaluates the total ethics program against the program's objectives and defines the organization's current compliance. [Ref. 16:p. 2-28]

But, the greatest responsibility for auditing and assessing an organization's ethics program for compliance should lie with managers. To accomplish this, the organization uses an internal audit. [Ref. 16:pp. 2-28 thru 2-29]

The internal audit is similar to the external audit except that it is conducted by an auditing entity within the organization. The entity is independent of the chain of command of the specific area being audited to allow for objectivity. It may perform such tasks as comparing policy to regulations and philosophy or test the internal controls and procedures. As it implies, this internal audit produces an objective and independent report by management who are familiar with the structure and philosophies of the organization. [Ref. 16:pp. 2-29 thru 2-32]

D. DOD CONTRACTOR ETHICS PROGRAM

1. Background

The Motorola Government and Systems Technology Group ethics program consists of both the Motorola Corporate Code of Conduct (standards of conduct) and its implementing policies to ensure compliance with the Corporate Code of Conduct. The Code of Conduct is a culmination of conduct standards which are tailored to both military and civilian customer business. [Ref. 11]

2. The Program

The Government and Systems Technology Group's (GSTG) ethics program is divided into four major elements. These elements may be characterized as the Code, Internal Controls, Training, and Audit.

a. Code

The Code consists of two sub-elements, first of which is a Motorola Corporate document entitled "Our Fundamental Objective-Total Customer Satisfaction", which contains the corporate key beliefs, goals, and initiatives. [Ref. 11] Such a document can be characterized as a code of ethics.

The second sub-element consists of the standards of conduct which are contained in the Motorola Code of Conduct, Supplemental Guidelines for Government Contracting, and the Motorola GSTG Code of Conduct. These standards of conduct are provided to its subcontractors, agents, marketing consultants, and other professional consultants. [Ref. 11]

b. Internal Controls

The Internal Controls and the procedures for accomplishing them are maintained by the Motorola GSTG Ethics Review Committee. This committee consists of GSTG's Corporate Vice-Presidents, who act as a group on ethics compliance issues and allegations of misconduct originating outside or within the organization. These compliance issues and allegations are required to be reported directly to the Group's Law Department through its hot-line if the work force elects not to use their management chain of command. The review committee is further responsible to take action to correct the ethics issues with concurrence of the Corporation's Business Ethics Compliance Committee. The

review committee is particularly important to GSTG because it protects the integrity of Government Contracts in specific issues of contract compliance relating to environmental, health, and safety concerns. [Ref. 11]

c. Training

Ethics training is provided upon initial hiring of an employee and at least bi-annually from then on. The initial ethics training consists of a reading of the Code of Conduct and written certification that the employee understands and will comply with it as a requirement for further employment. The bi-annual training is required to be conducted by employee managers and supervisors. There is no specific media requirement or time duration required for this instruction only that the leaders "explain" the requirements of their code of conduct. [Ref.11]

d. Audit

Both internal and external audits are performed periodically on the GSTG ethics programs. Internal audits are performed by the Internal Audit Department in the GSTG Group Audit and external audits are performed by the Motorola Corporation Business Ethics Compliance Committee. Such audits are required by Motorola's corporate management to ensure compliance with the company's procurement integrity mandates and its Code of Conduct. [Ref. 11]

E. SUMMARY

A review of the Quatroche Thesis [Ref. 15], the LMI study [Ref. 16], and Motorola's GSTG ethics program [Ref. 11] demonstrate many similarities between the ethics program elements discussed in each of the three. The similarities are that each ethic framework structure consists of four main elements and these elements may be generally characterized as: a Code, Controls, Training, and Audit. In Chapter IV, Methodology, the use of the program elements will be discussed as to on how they influenced the construction of the researcher's survey questionnaire.

IV. RESEARCH METHODOLOGY

A. GENERAL

Initially the researcher had planned to conduct a survey of effected DoD personnel to determine what would be required of an effective ethics program for a contracting office. Initial telephone interviews with various DoD buying commands and contracting offices revealed that written ethics programs, tailored specifically to contracting entities, did not exist. In contrast, it was found that all DoD contractors interviewed had ethics programs with the major part of these ethics programs comprised of ethical standards and procedures relating specifically to Government contracting versus relating to their civilian customers.

The researcher then examined the feasibility of a standardized ethics program and its elements for a DoD contracting office (buying office). First, a literature search was performed for Government ethics legislation, procedures, and policies, including published ethics program frameworks. Then, to facilitate research for determining the feasibility of a standardized contract ethics program, follow-on key interviews were conducted that kicked-off the research process and a survey was conducted and analyzed.

B. PERSONAL INTERVIEWS

The main objective of the following interviews was to obtain an initial opinion of whether or not a standardized DoD ethics program for DoD component contracting offices was feasible. Three senior DoD personnel at different contracting or contracting related organizations were interviewed. The interviewees were: Randi DuFresene, the Senior Attorney of the Standards of Conduct Office (SOCO), Office of General Counsel (OGC), U.S. Department of Defense, Washington D.C.; Bob Ingam, Chief Defense Program Representative Office (DPRO), The Boeing Company, Seattle, Washington; and Ed Elgart, the Principal Assistant for Research and Contracts, U.S. Army Communications and Electronics Command (CECOM), Fort Monmouth, New Jersey.

1. Ms. Randi DuFresene

Ms. DuFresne stated that all DoD Standards of Conduct were consolidated into the August 30, 1993 Joint Ethics Regulation (JER). This consolidation was a two year project that developed the DoD Standards of Conduct into an all-in-one "one stop shopping" guide for all DoD components and did not require nor suggest supplementation. This led to the question of the feasibility of a standardized ethics program for DoD contracting offices. It was Ms. DuFresene's strong opinion that no ethics program tailored specifically for contracting offices was needed. She believed that the annual certification and financial disclosure requirement for procurement officials and the initial and annual Government

employee ethics training requirement was sufficient for contracting officials. [Ref. 4]

2. Mr. Bob Ingam

Mr. Ingam is a veteran DoD contracting officer who has performed the vast spectrum of procurement and acquisition jobs from Contract Specialist to Contracting Officer to Chief DPRO his current job. His time at Boeing has been quite unique in that he has seen Boeing go through some ethical conduct standards violations which have caused it to be temporarily suspended from entering contracts with the Government. Mr. Ingam strongly believes there is a need for an ethics program tailored specifically for contracting offices. The program should include a code of conduct and training oriented specifically to contracting ethics. He also believes that more ethics awareness may be needed in the form of training because of the DoD downsizing due to competition for the shrinking defense dollars. [Ref. 7]

3. Mr. Ed Elgart

Mr. Elgart emphasized three areas involving ethical conduct standards that he believes should have more emphasis placed on them in contracting activities. First and foremost, internal controls are critical to ensure that the latest developments in business ethics are disseminated to the contracting work force. In his office, he ensures that monthly published articles, posters, and monthly reminders on his Local Area Network (LAN) are consistently used to maintain

awareness and help prevent ethical conduct violations. Next, he believes the ethics training given by the ethics advisor from the general counsel's office, although within regulatory requirements, should be more than an annual video taped ethics program. The training, in his opinion, should consist of two-way interaction between the contracting work force and an ethics advisor, ie., group interaction type training on ethics issues facing contractors. Additionally, he believes that the contracting work-force needed this training "more than any other part of the acquisition work force." [Ref. 5]

Finally, though he doesn't believe conflicts of interest are a problem today in the CECOM, they had been identified as a potential problem in the past. [Ref. 5] In 1989, when Mr. Elgart assumed his current position in CECOM, he made numerous changes in contracting positions. Because of the "good-old-boy" [Ref. 5] relationship many of his Contracting Officers had with program management personnel, there was the appearance that source selections were made based on these relationships. Therefore, Mr. Elgart made many positions changes to prevent the appearance of conflicts of interest. As for the question of whether a standardized ethics program for DoD contracting offices was feasible, he did not feel compelled to answer this in a yes or no fashion, only that the aforementioned areas needed more emphasis. [Ref. 5]

The analysis of interview responses revealed that there is not a clear cut agreement between the OGE and the DoD agencies as to whether a standardized DoD ethics program for contracting offices and buying commands are needed. Because of the existing discord on the subject of a standardized contracts ethics program, a survey questionnaire for broad distribution was chosen as the vehicle to resolve this situation.

C. SURVEY QUESTIONNAIRE

A survey was prepared and distributed to contracting offices and buying commands. This was conducted in order to objectively measure the feasibility of a standardized DoD ethics program for DoD component contracting offices and define the elements of such a program.

1. Target Population and Sample Size

Based on the discord about the feasibility of a contracts ethics program between the senior DoD officials interviewed, the decision was made to measure the contracting work forces' receptiveness of a standardized ethics program for contracting offices via a distributed survey. In order to ensure valid credible survey results, experienced contracting personnel throughout DoD (Army, Navy, and Air Force) were considered for the survey. The target population was taken from the contracting positions in the grade of GS-9 or higher. This was to ensure only a population of the work force with

experience in processing, administering, and/or authorizing DoD contracts was surveyed.

To identify the recipients of the survey, a total of 14 buying commands and contracting offices of the three services were contacted. This was done to acquire a liaison in the buying command policy division or with the management of a contracting office of these entities in order to administer the survey. Of the 14 contracting entities contacted, seven were willing to commit to administering the survey.

The specific sample was based on the following criteria given to the administrator of the survey at the contracting agencies. The survey sample participant must have been an Administrative Contracting Officer (ACO), Procurement Contracting Officer (PCO), or a Contracting Specialist (CS) and in the grade of GS-9 or higher. Given a commitment by the DoD component liaison to administer the survey, a greater response was anticipated than if no commitment was received. One Hundred and Thirty-Seven surveys were mailed to the committing buying commands and contracting offices.

2. Survey Design

There were three specific objectives in formulating the survey questionnaire. The first objective was to design the survey in such a manner to see if the cross section (sample) of the DoD contracting work force believed, based on

their experience, that a standardized ethics program in a DoD component contracting office was feasible.

The second objective was to identify the elements of a standardized ethics program for a DoD component contracting office, and the work force feelings about issues related to prospective elements of a program. The surveyed elements were based on a culmination of program elements resulting from the interviews conducted with the senior Government officials; and the three written studies previously mentioned.

The last objective was to design the survey using open-ended, yes-no, and multiple choice questions to attain responses that would facilitate analysis, designed to support the first two objectives. The Survey Questionnaire is enclosed as Appendix A.

Taking the three objectives of the survey into consideration, the design of the survey questionnaire was developed using two sections. The first section contained general information and was developed for two major reasons. The first reason was to identify the respondents by grade/rank and duty position (eg., GS-9 to GM-15 and ACO,PCO, or CS) to verify the sample population. The second reason was to determine the credibility of their responses to the research based on their reported number of years acquisition experience (procurement and contracting).

The second section of the survey questionnaire contained three types of questions. The first type of

question consisted of open-ended questions, which allowed the respondent to provide a written answer in the space provided. This type of question accounted for six of the 20 survey questions in this section. The main objective of these questions was to determine whether the respondents' cumulative responses favored an ethics program and what they believed, based on their experience, should be the program elements.

The second type of question consisted of yes or no responses and accounted for 11 of the 20 questions in the second section. These questions were asked to ascertain the respondent's familiarity with current ethics policy, and the acceptance of standard ethics procedure.

The third type of question was multiple-choice, structured with a choice of three responses eg., most of the time, sometimes, or none of the time. This type consisted of three of the survey questions, and was selected to find out specifically the degree to which a selected situation existed.

D. SUMMARY

This chapter discussed the methodology involved in conducting the research for this Thesis. Specifically, it discussed the personal interviews and studies that allowed the researcher to conduct a survey. Such a survey allowed the researcher to present and analyze the data to present conclusions and recommendations contained in the following chapters. Chapter V, Data Presentation and Analysis, will discuss the survey questions and the responses to these

questions as well as an analysis of the survey results, and a comparison of results to the ethics programs and frameworks discussed in Chapter III.

V. DATA PRESENTATION AND ANALYSIS

A. GENERAL

The data from the Survey Questionnaire will be presented and analyzed along with a comparison of the analysis to an ethics program framework as discussed in Chapter III. The outcome of the literature search, survey analysis, and common element terminology found in the comparison will be used to draw recommendations and conclusions in Chapter VI.

B. SURVEY QUESTIONNAIRE

1. Surveys Returned and Sample Population

Of the 137 survey questionnaires mailed, a total of 70 were returned. Nine of the returned questionnaires were not in useable form due to incomplete data or the wrong sample population answered it, eg., Price/Cost Analyst as opposed to the targeted contracting population. This gave the researcher 61 valid questionnaires from which to perform his analysis.

Additionally, the survey was targeted at GS-9 or higher Government employees and equivalent grade military officers to ensure acquisition/procurement experienced respondents. The most responses came from the GM-13/14 grade level comprising 30 of the 61 total responses or 49% for an average of 15 years acquisition experience and currently holding an ACO, PCO, or CS position. The survey's responses

were acquired from this vastly experienced work force through open-ended, yes-no, and multiple choice questions.

2. Open-Ended Questions

a. Survey Question 2.a.

Is a standardized ethics program needed for DoD contracting offices? Why or why not?

(1) Discussion. This question was asked in an open-ended manner to attain a candid positive or negative answer with explanation, as to the feasibility of a standardized ethics program specifically for a contracting office.

From the 61 questionnaire responses, 18 answered no, 32 answered yes, and 11 did not answer the question asked. The 11 respondents that did not answer the question, gave the impression, through their comments, that they thought the researcher was asking if the current DoD program of yearly ethics training and procurement integrity certification was needed. To avoid the confusion the 11 respondents incurred, the question might have asked, "Is a standardized ethics program (other than the current DoD requirement for DoD employees) needed for DoD contracting offices?"

(2) Analysis of response data. The majority, or 52% of the respondents, said that a standardized ethics program for a DoD contracting office was needed. Thirty

percent of the respondents said no program was needed and of the total responses, 18% did not answer the question.

When the respondents were asked why or why not about their responses, there were three common reasons found. The respondents who answered "yes", said that reinforcement of ethical conduct was needed because many of the ethics laws and policies are still confusing to the contracting work force. Secondly, the survey participants said that, more ethics training is needed because of changing ethics laws and reforms. Thirdly, they commented that the program must be consistent across the Government agencies. The "no" responses answered by explaining that the current Government employee ethics training and procurement integrity certification requirement was sufficient for ethics compliance.

b. Survey Question 2.b.

What elements do you believe make a standardized contract ethics program ie., code of ethics, monthly training/sensing sessions, internal monitoring/controls, contracting official ethics mentor, a designated assistant ethics official within the contracting office or one which remains in the legal office, or etc.?

(1) Discussion. This question was asked to allow that part of the work force who were in favor of a contracting ethics program, to list what they felt should be some of the standardized elements. A partial list of elements developed

from programs, frameworks, interviews, and research were presented in the question to give the respondent a flavor for some ethics program elements. This allowed the respondent to chose his or her ethics program elements based on the given elements or add others, based on their experience, needed to make standardized ethics program elements. All 32 of the respondents who answered yes to question 2.a., provided what they felt were the elements of a standardized ethics program.

However, the question was not meant to be an all inclusive basis for defining the only elements or sub-elements that would be included in a standardized program. The other survey questions would be used to identify other elements which may be included as standardized program elements.

(2) Analysis of response data. The elements that were considered valid (in common over 50% of the time), with the 32 respondents who were in favor of survey question 2.a., were selected for analysis.

The first ethics program element which was found to be commonly selected was a code of ethics. Of the respondents that were in favor of a standardized ethics program, 70% felt a code of ethics was required and 30% did not feel it was a required element.

The next common element was training. Almost all of the respondents in favor of an ethics program, or 97% of these advocates, were in favor of ethics training as a

program element. Fifty-three percent of the respondents were in favor of monthly to semi-annual training, 22% favored annual training, and 22% of the responses showed training at intervals other than monthly, quarterly, semi-annually, or annually, eg., bi-annually. Three percent did not answer the question.

c. Survey Question 2.c.

Do you have a written ethics program (policy) within your organization contracting office? What does it consist of?

This question was eliminated as a source of data. The researcher failed to remove it in the draft survey after it was identified for deletion. This deletion was intended following the discovery that the information was available via other sources, and that surveys were sent to activities previously mentioned to not posses tailored programs. All of these entities adopted the programs and policies directed by DoDD 5500.7, Standards of Conduct.

d. Survey Question 2.d.

Is there someone assigned as the designated ethics official (ethics officer)? If so, what is his or her geographic location and official title?

(1) Discussion. The purpose of this question was to see how informed the contracting work force was on their designated ethics counselor, usually under the title of: ethics counselor or agency ethics official, as defined in the

JER. Additionally, if the respondent didn't know how to get or where to get ethics counseling then this might that some of the work force is not getting ethics training.

From the 61 survey responses, all of the participants answered the question of whether a designated ethics official was assigned to their office. But, as to the question of the ethics official's location, 49 of the respondents were sure of the location and 12 were not.

(2) Analysis of response data. In analyzing the responses, to the question of the designation of an ethics official, three distinct responses were received. First, 87% of the respondents said there was an ethics official assigned. Next, 8% said they did not know if they were assigned an ethics official and 5% said there was not an ethics official assigned.

Of the respondents that were aware that a designated ethics official was assigned to their office, only 8% did not know the officials location. Additionally, 28% of the respondents that knew there was an ethics official assigned, only knew him or her as a lawyer or attorney. In contrast, 20% of the respondents were aware of their designated ethics official's title as that of ethics counselor or designated ethics official. The JER requires that DoD employees know the location and title of their "ethics counselor." [Ref. 5:pp. 141-145]

e. Survey Question 2.e.

What does contracting/procurement ethics mean to you and your organization?

(1) Discussion. This question was asked with the intent of getting the work force to put into words the contracting philosophy of the organization and/or their own. The researcher hoped that the respondents comments would have some commonality and would be written in a positive manner. Such responses were hoped to give the researcher an understanding of the organization and work force structure support for ethics in accordance with regulations and laws.

All but nine of the 61 responses had positive comments in regard to what ethics meant to them. The nine responses considered other than positive did not answer the question, or said ethics did not mean anything to them.

(2) Analysis of response data. The 52 positive responses or 85% of the 61 received, gave the researcher five common response summaries of which one or more were included in each of the individual responses. The work force said that ethics meant: (i) acting above reproach in the conduct of business; (ii) using fair, equal, and/or impartial treatment of contractors; (iii) following regulations and laws; (iv) maintaining integrity of a procurement; and/or (v) just doing what is ethically right.

f. Survey Question 2.f.

How often do you conduct/receive ethics training? What is covered in the training?

(1) Discussion. This question was asked primarily to find out if the survey sample population was actually receiving at least annual ethics training. The other part or secondary question was asked to find out what was being taught in ethics training.

All 61 of the survey participants answered this question. Only two respondents said they were not receiving annual ethics training. When the participants were asked what was covered in ethics training, 14 of the respondents chose not to respond to this secondary question.

(2) Analysis of response data. Analysis of how often ethics training was conducted/received showed that 87% of the respondents received training annually, 10% received training semi-annually, and 3% did not receive training. Additionally, 8% of the survey participants said they received supplemental ethics training through the organization's Local Area Network (LAN) or bulletin board.

Analysis of the secondary question of what is covered in the ethics training, showed that 64% of the respondents received training straight from the DoD Standards of conduct and Joint Ethics Regulation, 13% received a combination of training from regulations and case studies, and 23% did not answer the question.

3. Yes-No and Multiple Choice Questions

a. Survey Question 2.g.

Should contracting officials be audited for their compliance with ethical standards through better internal controls (internal organization checks and balances) instead of external (Govt) controls?

___yes ___no

(1) Discussion. This question was designed to indicate whether extensive internal controls were a better way of checking for ethics compliance than Government controls. This information would help determine if the contracting work force would like to be more self-policing as far as ethics compliance.

(2) Analysis of response data. Out of the 61 responses, 57% believed external controls should be used in auditing for ethics compliance, 38% said that better internal controls in lieu of external controls were needed for ethics compliance, and 5% did not answer the question.

b. Survey Question 2.h.

Should junior Contracting Officers (< 2 yrs. experience) be required to chose an ethics mentor; a senior procurement official they can rely on for ethics advise?

___yes ___no

(1) Discussion. The researcher chose this question because in his past military assignments junior officers were urged to chose a mentor (a Sr. Officer out of

their direct chain of command). The mentor was used to guide them during their initial assignment. Having such a procedure or policy, the researcher believed might assist the newer inexperienced Contracting Officer in dealing with day to day ethical issues.

(2) Analysis of response data. The data analysis illustrated that 70% of the work force answering the survey did not agree with a mentorship policy. But, 27% did agree with the policy and 3% did not answer the question.

c. Survey Question 2.i.

Is your annual ethics training program helping you deal with potential ethics related situations?

___yes ___no

(1) Discussion. This question was designed to find out if ethics training was truly valuable in the performance of contracting related duties. A "yes" answer would tend to indicate that ethics training, no matter how in-depth or focused, has helped the respondent in ethical decision making. A "no" answer would mean that the ethics training had no added value to his/her current knowledge of ethics.

(2) Analysis of response data. All of the 61 respondents answered yes or no to this question. An overwhelmingly amount or 80% of the responses were yes to the question. Only 20% answered no, believing that ethics training is not helping them in ethics related situations.

d. Survey Question 2.j.

During ethics training do you get to interact with the ethics advisor?

___yes ___no

(1) Discussion. This question was asked to get a snap shot of whether the survey population was getting instructor facilitated training with group discussion or video tape instruction. A "yes" answer would equate to instructor facilitated training where real interaction was developed during instruction and a no answer would equate to a video tape type of non-interactive instruction.

(2) Analysis of response data. The data analysis showed that 64% of the respondents got to interact with the ethics advisor during training, 33% do not get to interact, and 3% could not answer the question because they responded as not having ethics training in survey question 2.f.

e. Survey Question 2.k.

Has the downsizing/shrinking defense budget caused a greater concern or possibility of unethical conduct?

___yes ___no

(1) Discussion. This question was designed to get the contracting work force's feeling or first-hand experience thus far on the influence of a smaller defense budget on ethical conduct.

(2) Analysis of response data. Three-quarters of the survey respondents, or 75%, believed that the

downsizing/shrinking defense budget has not caused a greater concern or possibility of unethical conduct. While 23% believe that the smaller defense budget has caused greater concern or possibility of unethical conduct, and 2% did not chose to answer the question.

f. Survey Question 2.l.

Does your office have internal controls that ensure, promote, and reinforce good business ethics?

___yes ___no

(1) Discussion. The question was constructed in such a manner to find out if the work force organizations' internal controls for ethics were conducive to ensuring good business ethics. Just as the industry primer study on ethics programs found in the importance of internal controls. [Ref. 1:pp. 2-25 thru 2-28].

(2) Analysis of response data. Over two-thirds of the survey respondents, or 67%, answered yes saying their offices have an effective internal control system for ethics. In converse, 33% said they do not have effective internal controls in their work place.

g. Survey Question 2.m.

Would an ethics handbook, provided to you at no cost, containing cases, rules, and regulations in easy to read form prove valuable?

___yes ___no

(1) Discussion. This question was developed based on the historical use of handbooks (consolidated, diverse, and easy to read information) by the branches of service eg., the Army's Ranger Handbook and the Navy's Competition Handbook. Such a handbook could take the form of condensing the Joint Ethics Regulation into a handbook or commercial off-the-shelf ethics handbook which would be provided to each member of the contracting work force. Currently, per DoDD 5500.7, Standards of Conduct, a copy of the JER (the DoD ethics "handbook") is only required to be on-hand at the ethics counselor/agency ethics official's office.

(2) Analysis of response data. In analyzing the data it was found that 74% of the respondents agreed that an ethics handbook would prove valuable to the contracting work force. Only 26% felt that the handbook would not be valuable.

h. Survey Question 2.n.

Are you familiar with Joint Ethics Regulation DoD 5000.7-R?

___yes ___no

(1) Discussion. Since the JER was only five to six months old at the time of the survey, the researcher had two motives with this question. The first motive was to make the target population aware of the JER and the second was to find out how many respondents were already aware of its existence.

(2) Analysis of response data. All 61 of the survey respondents answered the question. A total of 51% of the responses were yes, 46% were no, and 3% wrote in that they did not know.

i. Survey Question 2.o.

Have the Defense contractors you have interfaced/negotiated with in the past five years used unethical business practices?

___most have ___some have ___none have

How many?___ How many?___

(1) Discussion. This question was asked to get a candid response from the contracting work force of how often they face unethical business practices. Since the surveys were anonymous, the researcher hoped to get open factual answers. He also allowed the respondents to answer the question in a multiple choice and fill in a quantitative amount in two of the choices to enhance the data.

(2) Analysis of the response data. Only 2% of the responses said that most defense contractors have used unethical business practices an unspecified number of times, 28% said some have, ranging from one to five DoD contractors, 67% said none have, and 3% did not answer the question. As a result, only approximately 6% of this DoD contracting work force face one or more unethical business practices a year.

j. Survey Question 2.p.

How would you like to see ethics training conducted?

___video tape ___instructor lead ___group interaction

(1) Discussion. This question was formulated to find out what type(s) of ethics training instruction would work the best for the contracting work force. Currently, DoD's policy for annual ethics training requires that it be provided "verbally in person or by recorded message" by an Ethics Counselor. [Ref. 5:pp. 141-145] training. But due to the thousands of DoD employees the Government has had to train annually. To accomplish this, the Government has used, for example, professionally produced ethics videos to convey the annual ethics training requirement to its employees.

(2) Analysis of response data. The survey participants answered this question with a single answer and also in a combination of answers. The analysis showed that most often or 30% of the participants wanted group interaction type ethics training, 24% a combination of group interaction, video, and/or instructor lead training, 23% video training, 15% instructor lead training, and 8% did not answer the question.

k. Survey Question 2.q.

Would you feel comfortable talking to your supervisor about an unethical or potentially unethical situation?

___yes ___no

(1) Discussion. This question was asked to see if there were any barriers between the respondents and their supervisors in reporting and discussing unethical conduct. A "no" response to the question, would give the impression that ethics issues might be suppressed or a concern that they might be ignored by the supervisor. The contracting work force's only alternative would then be to work directly with their ethics counselor or use the DoD Hot-Line in lieu of initial advise from their supervisor.

(2) Analysis of response data. In analyzing the yes and no responses, it was found that 93% of the respondents said they feel comfortable talking to their supervisors about possible unethical situations. This left only 7% who said no to discussing such a situation.

c. Survey Question 2.r.

Do program managers, R&D, or commodity/product managers try to influence contract source selection?

___most of the time ___sometimes ___none of the time

(1) Discussion. The question was designed to illustrate to what extreme the customer eg., PM or product manager influenced the selection of a source. This was surveyed without asking in the question, whether assumed unethical influence was being used by the customer. Just the routine influence (most of the time or sometimes) by a customer should make the contracting work force more cognizant

to the appearance or actual unethical influence in future source selections.

(2) Analysis of response data. The analysis shows that 56% of the respondents say that some of the time they are influenced in source selection, 21% were influenced none of the time, 15% were influenced most of the time, and 8% did not answer the question or said they did not know.

m. Survey Question 2.s.

Would a published, written "Code of Contracting Ethics" serve as a useful reminder of the special responsibility that contracting and procurement officials have as stewards of the Public's funds?

___yes ___no

(1) Discussion. In Chapter II of this Thesis the ethics programs and frameworks were discussed in a thesis [Ref. 15], a Government contracted study [Ref. 1], and a DoD contractor's ethics program [Ref. 27]. Each program or framework discussed a code of ethics as an integral part of its structure. The researcher asked the above question to see if the target sample surveyed believed there was a need for a "Code of Contracting Ethics."

(2) Analysis of response data. Of the 61 contracting work force surveys received, 72% answered yes saying that there is a need for a written code of ethics. 26% said there was no need for such a code of ethics, and 2% did not answer the question.

n. Survey Question 2.t.

Would a "local," perhaps an assistant ethics advisor, a job assigned to a staff officer (not a lawyer) within a contracting office or division, make an environment for a contracting officer to be more comfortable in getting initial ethics advise than utilizing an ethics advisor in the legal office?

___yes ___no

(1) Discussion. Many contracting offices or other type entities do not have ethics advisors (law professionals) under the same roof as some systems commands (eg., Naval Sea Systems Command,) for quick access to ethics advise. Some ethics advisors are geographically miles away from contracting officials as is true in some DPRO shops eg., DPRO Boeing, Seattle. The researcher formulated the above question based on the issue of convenience in receiving ethics advise and from someone (a staff officer) familiar with ethical issues incurred by the work force.

(2) Analysis of response data. The data analysis revealed 80% of the respondents said that no "local" or assistant ethics advisor was needed. Only 18% said such an ethics advisor was needed, and 2% said they did not know.

C. COMPARISON OF THE ANALYSIS TO AN EXISTING ETHICS FRAMEWORK

Chapter III, Introduction to Ethics Programs and Frameworks gave an example of three contracting ethics program frameworks. The Quatroche Thesis developed on an ethics

program for Navy contracting [Ref. 15] and the Motorola Government Systems and Technology Group's ethics program [Ref. 11] both integrate ethics program elements similar to those contained in the Logistics Management Institute (LMI) study [Ref. 16]. The researcher chose the LMI study for the basis of comparison with the data analysis because of its inclusiveness of ethics program elements.

The LMI developed four very in-depth program elements. [Ref. 16] Using these elements, the researcher will compare and contrast them with the analysis results. The four elements consist of Code, Communications, Training, and Monitoring. [Ref. 16]

The first element, Code, contains a creed (code of ethics) and standards of conduct. The creed is a written code of an organizations values and duties to its organization and customers. The standards of conduct determine what employee conduct is considered to be ethical behavior. [Ref. 16:pp. 2-4 thru 2-6].

From the analysis of the contracting population surveyed, it was found 72% of the population agreed that a code of ethics or "Code of Contracting Ethics" would be valuable as a reminder of the work force's ethical responsibility of their duties as stewards of the Public. The second part of the Code, a standards of conduct, is already an integral part of DoD ethics and is contained in DoDD 5500.7, Standards of Conduct, and the Joint Ethics Regulation. The JER, recently

publish on August 30, 1993, includes conduct standards for DoD employees and specific standards for employees in the procurement field. [Ref. 19]

The second element of the LMI ethics program study was Communications. This element consisted of four sub-elements which are distribution of the Code and communiques, a reporting system, and a reporting mechanism. [Ref. 16:p. 2-11]

Distribution of the Code to Government contracting officials could be performed on an as needed bases. Specifically, the "Code of Contracting Ethics" and the Standards of Conduct would be disseminated to these officials at initial employment. [Ref. 16:pp. 2-11 thru 2-12] The distribution of communiques on ethics in many Government contracting entities are being done through various media. Local Area Networks (LAN) and bulletin boards are two means of conveying media at the Army Communications and Electronics Command (CECOM). [Ref. 5] As the LMI study explains, this can be a most efficient and effective manner of getting ethics related issues to the employees. [Ref. 16:pp. 2-12 thru 2-13]

The last two sub-elements of Communications consist of a reporting system and mechanism. The system would allow reporting of alleged ethics violations both within and outside an organization's chain of command. This could be done through the supervisor's open-door policy or organization's hot-line. [Ref. 16:pp. 2-14 thru 2-19]

The DoD JER typifies the use of reporting systems and mechanism by advocating employees use the internal chain of command and/or the DoD Hot-Line or Inspector General (IG) for reporting alleged ethics violations. [Ref. 19:pp. 133-136] The analysis of the contracting work force surveyed showed that 93% were comfortable with discussing possible unethical conduct issues with their supervisors. This is not to mean that these employees did not convey their ethical concerns over the Hot-Line or to the IG.

Another external reporting mechanism developed in the ethics program study was the use of an Ombudsman. [Ref. 16:pp. 2-11 thru 2-19] The researcher surveyed for a response to assigning a similar individual (staff officer) to act as an assistant ethics advisor. The survey results showed that 80% of the respondents did not feel the need for such an advisor.

The third ethics program element of the study was Training. LMI said that for a training program to be satisfactory it must consist of instruction on compliance with contract law and DoD policy as well as the organization's code of ethics and standards of conduct. The instruction must be presented in such a way to give the employee the ability and tools that allow him/her to make ethical decisions and where to acquire assistance. [Ref. 16:pp. 2-20 thru 2-24]

In relation to the type of training (curriculum) the work force was receiving, 78% of the respondents were receiving training from the Standards of Conduct and/or a combination of

it and case studies. In the area of training frequency, 97% of the survey respondents were receiving this training annually as required by the DoD Standards of Conduct. But, when the survey population was asked at what interval they would like to see training conducted, 53% said monthly to semi-annually, 22% answered annually, 22% said at other intervals, and 3% did not reply. Taking this training a step further, the researcher asked the survey population how training should be conducted, 30% responded with group interaction, 24% said a combination of training, 23% video tape, 15% instructor lead, and 8% did not answer the question.

LMI said that in order for an ethics program to be "satisfactory," it must not only have instruction on compliance, but it must also give the employee tools/means to make their own ethical decisions. [Ref. 16:pp. 2-20 thru 2-24] When the researcher asked the survey respondents if ethics training helped them deal with ethical related situations, 80% replied yes and 20% replied no to the question.

The final element developed in the study is called Monitoring, This is the implementation of a monitoring system to evaluate an organization's ethics program. Such a system may consist of internal controls, external auditing, or internal audits. [Ref. 16:p. 2-25]

Internal controls are used to identify high risk ethical compliance areas and develop procedures to overcome or prevent

non-compliance. [Ref. 16:pp. 2-25 thru 2-28] When the contracting work force was asked in the survey if their office had an effective internal controls system, 67% said yes and the other 33% said it did not.

Next, the system may contain an external auditing procedure from which an audit is conducted by an outside organization. This audit would evaluate the office's or organization's ethics program against program objectives to define the extent of compliance. [Ref. 16:pp. 2-28 thru 2-29] In DoD contracting agencies, many external audits are conducted by the GAO or the IG. Currently, the Office of General Counsel, Standards of Conduct Office, perform an annual audit of Major Commands' compliance with annual ethics training and Procurement Integrity certification requirements. [Ref. 4]

The last monitoring system, internal auditing, is conducted by an independent entity within an organization. This type of audit allows for objectivity because it is independent of the chain of command and such an entity is familiar with an organization's structure. [Ref. 16:pp. 2-29 thru 2-32] Many DoD contracting entities currently use such an organization for auditing eg., Naval Air Systems Command's Directorate of Contracting Policy Office or the San Antonio Air Logistics Center's Contracts Committee Policy and Review Branch. [Ref. 9; Ref. 1]

D. SUMMARY

This chapter has demonstrated through data analysis and a comparison of an ethics program framework what ethics program elements and issues are important in a contracting entity's ethics program. Chapter VI, the following and final chapter, will form conclusions to the Thesis questions posed at the beginning of this Thesis, provide recommendations, and suggest topics for further study.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. GENERAL

This chapter will make statements of conclusion to the Thesis Primary and Subsidiary questions. It will also provide recommendations and areas for further research. The researcher will base his conclusions and recommendations on his literature review, interviews conducted, and survey questionnaire analysis results.

B. CONCLUSIONS

1. Subsidiary Question #1. What are the legal and regulatory requirements affecting ethical conduct standards?

As identified and presented in Chapter II, the legal and regulatory requirements affecting ethical conduct standards are overwhelming. Additionally, they are still complicated and confusing to the contracting work force even with the consolidation of regulations. The reissue of DoDD 5500.7, Standards of Conduct and the establishment of the DoD 5500.7-R, Joint Ethics Regulation in 1993, has provided a consolidation of both Federal and DoD ethical conduct standards into one regulation. This consolidation still does not give the contracting work force a clear understanding of ethics laws and regulations without frequent reinforcement by management and ethics counselors.

2. Subsidiary Question #2. What ethics programs are currently being used by DoD contracting offices?

Information presented in Chapter V showed that Contracting offices and/or organizations formally use only the minimum ethics program requirements. Specifically, the information shows that the minimum annual ethics and procurement integrity training requirements currently used do not provide the additional training needed to understand the complex ethics laws and regulations. Only one organization surveyed consistently provides ethics awareness media to its work force. But, the contracting officials, specifically General Management (GM) level, advocate a more structured ethics program framework. These officials are not likely to implement such a program unless mandated by regulation.

3. Subsidiary Question #3. What are the advantages and disadvantages of using generic published and civilian ethics program elements in a DoD contract ethics program?

There are many advantages and few disadvantages in using generic published and civilian ethics program elements in a DoD contracting office ethics program. Chapter V revealed that the greatest advantage is that generic and civilian ethics programs have almost identical elements; differing only in their titles. The use of such elements could supplement the current DoD ethics program contained in the JER and assist in defining and reinforcing ethical issues and law, many of which are unique to the contracting

community. The main disadvantage of such program elements would be the difficulty of implementing every element and sub-element of the programs without additional costs, resulting from additional man-hours and other resources.

4. Subsidiary Question #4. What are the essential elements of a standardized ethics program in a DoD contracting office?

As presented in Chapter V, there are four essential elements of a standardized contracting office ethics program. The four essential program elements which were developed are: 1) a Code of Conduct, which consists of both a "Code of Contracting Ethics" and the DoD Standards of Conduct; 2) Internal Controls; 3) Quarterly Training; and 4) Internal/External Auditing.

5. Primary Research Question. Can a standardized DoD ethics program be developed for use by all DoD component contracting offices?

As demonstrated, through the subsidiary research questions, a standardized DoD ethics program can be developed for use by all DoD contracting offices. More specifically, the research results in Chapters II and III revealed that there are no legal or regulatory requirements preventing the use or development of a standardized DoD ethics program in a contracting entity. The JER is the latest example of DoD's philosophy of standardization of policy and regulation for all three services.

Further, the research in Chapter IV revealed that the contracting organizations surveyed, which represented all three branches of service, did not have ethics programs. They had no programs or policies for implementing the Standards of Conduct contained in the JER.

These entities implemented the DoD Ethics Program minimal requirement (annual ethics and procurement integrity training) through an ethics counselor. Only one organization supplemented the minimal training requirement with continuous ethics awareness training using their LAN and organization bulletin board. This is in contrast to the research results that revealed ACO's, CO's, and CS's see a need for more than adhoc and annual ethics training.

Research results further revealed that the DoD contracting work force want a standardized ethic program. Such a program is needed to reinforce ethical conduct by defining and clarifying laws and policies found confusing to these contracting professionals. Additionally, more frequent education is required because of the rapid rate of acquisition reform. Finally, there is a need for consistency across DoD agencies in program elements just as the JER was developed for standards of ethical conduct to maintain one standard.

C. RECOMMENDATIONS

1. A quarterly ethics training requirement for contracting officials.

The contracting work force should receive progressive quarterly training; a dynamic program which builds on past quarters training curriculum. It should be kept in mind that quarterly ethics training may not prevent unethical behavior, but will assist contracting professionals in identifying unethical behavior and provide standard reporting mechanisms.

2. A DoD requirement for each systems command contracting division or field contracting office maintain a copy of the Joint Ethics Regulation (JER).

Currently, DoDD 5500.7 only requires one copy of the JER be maintained in the office of the local Ethics Counselor to serve all the DoD employees he/she counsels. Many of these contracting entities eg., Defense Plant Representative Offices (DPROS), operate a long geographic distance from their "local" ethics counselor. This distance makes it difficult for the work force to receive ethics assistance from the counselor or to acquire reference material.

3. Present ethics training in a combination of media and types of instruction.

Ethics training instruction for contracting officials should always consist of a combination of group interaction, instructor lead, and/or video training. The instruction material for this training would include not only the JER but should also consist of case studies of eg., past cases of unethical conduct and case studies in academic texts.

4. Establish this model ethics program for contracting offices within the JER.

The DoD should establish the elements of this standardized ethics program as implementing policy for DoD ethic regulations. This would provide for a standard process in which to convey and maintain ethical behavior awareness in the contracting work force.

5. Contracting official certification requirement.

Contracting officials eg., ACO, CO, and CS should be required to pass a contracting certification test which contains a required section on ethics. Such a certification might take the form of the Certified Associate Contracts Manager (CACM) exam for CS's and the Certified Professional Contracts Manager (CPCM) exam for ACO's and CO's.

D. AREAS FOR FURTHER RESEARCH

1. A "Code of Contracting Ethics."

Develop a "Code of Contracting Ethics" that contains elements which espouse contracting official's and his or her organization's ethical responsibility to themselves and their suppliers and customers.

2. A Cost benefit analysis of the Model Ethics Program.

Perform an analysis of the cost in personnel and other resources to the benefit of implementing this program.

3. Development of a training curriculum.

Develop a progressive training package that starts with Joint Ethics Regulation basics and build to comprehensive ethics case studies.

APPENDIX A

SURVEY_____

SURVEY QUESTIONNAIRE

1. GENERAL INFORMATION:

a. Grade/Rank (Military/Govt employees)_____

b. Branch of Service (Military/Govt employees)_____

c. Assignment/company location_____

d. Title/Duty Position_____

e. How long in current position_____

f. Total number of years in acquisition/procurement related assignments:_____

2. Please answer the questions as clear and concise as possible but don't hesitate to write as much as you feel is required. Your participation in this survey is needed to help further research into ethics program development.

a. Is a standardized ethics program needed for DoD contracting offices? Why or why not?

b. What elements do you believe make a standardized contract ethics program ie., code of ethics, monthly training/sensing sessions, internal monitoring/controls, contracting official ethics mentors, a designated assistant ethics official within the contracting office or only one which remains in the legal office, or etc.?

c. Do you have a written ethics program (policy) within your organization's contracting office?

d. Is there someone assigned as the designated ethics official (ethics officer)? If so, what is his or her geographic location and official title?

e. What does contracting/procurement ethics mean to you and your organization?

f. How often do you conduct/receive ethics training? What is covered in the training?

g. Should contracting officials be audited for their compliance with ethical standards through better internal controls (internal organization checks and balances) instead of more external (Govt) controls?

___yes ___no

h. Should junior Contracting Officers (< 2yrs.experience) be required to chose an ethics mentor; a senior procurement official they can rely on for ethics advise?

___yes ___no

i. Is your annual ethics training helping you deal with potential ethics situations?

___yes ___no

j. During ethics training do you get to interact with the ethic advisor?

___yes ___no

k. Has the downsizing/shrinking defense budget caused a greater concern or possibility of unethical activity?

___yes ___no

l. Does your office have internal controls that ensure, promote and reinforce good business ethics?

___yes ___no

m. Would an ethics handbook, provided to you at no cost, containing cases, rules, and regulations in easy to read form prove valuable?

___yes ___no

n. Are you familiar with Joint Ethics Regulation DOD 5500.7-R?

___yes ___no

o. Have defense contractors you have interfaced/negotiated with in the past five years used unethical business practices?

___most have ___some have ___none have
How many?___ How many?___

p. How would you like to see ethics training conducted?

___video tape ___instructor lead ___group interaction

q. Would you feel comfortable talking to your supervisor about an unethical or potentially unethical situation?

___yes ___no

r. Do program managers, R & D, or commodity/product managers try to influence contract source selection?

___most of the time ___sometimes ___none of the time

s. Would a published, written "Code of Contracting Ethics" serve as a useful reminder of the special responsibility that contracting and procurement officials have as steward of the Publics' funds?

___yes ___no

t. Would a "local", perhaps an assistant ethics advisor, a job assigned to a staff officer (not a lawyer) within a contracting office or division, make an environment for a contracting official to be more comfortable in getting initial ethics advise than utilizing an ethics advisor in the local legal office?

___yes ___no

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